

Exhibit G

US v. Walerko
Pleadings

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

EPA Region 5 Records Ctr.



279357

Recd.

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
WALERKO TOOL AND)
ENGINEERING CORPORATION,)
)
Defendant.)

CIVIL CASE NO. S91-00411 (M)

**RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO
DEFENDANT WALERKO TOOL AND ENGINEERING CORPORATION**

Pursuant to Rules 26, 29, and 33 of the Federal Rules of Civil Procedure, Defendant Walerko Tool and Engineering Corporation ("Walerko") submits the following responses to Plaintiff's interrogatories:

INTERROGATORY NO. 1: Describe in detail all your manufacturing activities involving or requiring purchase or use of TCA or TCE during the relevant time period, including what products were manufactured and the manner in which TCA or TCE was used or intended to be used.

ANSWER: TCE has never been used by Walerko. TCA was used as a parts cleaner in small quantities particularly in the manufacture of high tolerance products like those for the aircraft and defense industries. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 2.: State the quantity of each product described in response to Interrogatory 1 that you produced in each year during the relevant time period.

ANSWER: Walerko did not produce TCA or TCE. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 3.: State the average quantities of TCA and TCE used ~~for the manufacture of each type of product produced by Walerko in each year during the~~ relevant time period.

ANSWER: No records exist which specify the average amount of TCA used per product; however, Walerko used only a total of approximately 1,485 gallons before 1979 and none after 1979. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 4.: For each year in which TCA or TCE was used, identify the persons who conducted, supervised or were otherwise involved in manufacturing activities.

ANSWER:

Edward M. Walerko
1935 West Lusher Avenue
Elkhart, IN 46517

Thomas E. Walerko
1935 West Lusher Avenue
Elkhart, IN 46517

Roger Grimm
606 West Van Buren
Nappanee, IN 46550

In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 5: Identify all persons having knowledge or information about the purchase, generation, transportation, treatment, storage, disposal, or any other handling of TCA, TCE, or any other substance containing volatile organic compounds, whether product or waste, by Defendant or any prior owners or operators of the Facility.

ANSWER: Walerko incorporates by reference pursuant to Rule 10 of the Federal Rules of Civil Procedure its answer to Interrogatory No. 4. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 6: State the amount and source of each of your purchases of TCA or TCE.

ANSWER: All TCA was bought from Rollie Williams Paint Spot, Inc., 1179 Kent Street, Elkhart, IN 46514 with nine purchases of five gallons each, one purchase of ten gallons, and twenty-six purchases of 55-gallon drums. No records are available for 1972, 1973, and 1974. Walerko stopped purchasing TCA in 1979. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 7: Identify each person responsible for your purchases of TCA or TCE.

ANSWER: Walerko incorporates by reference pursuant to Rule 10 of the Federal Rules of Civil Procedure its answer to Interrogatory No. 4. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 8: Describe the installation, operation and output (i.e. the amount of TCE or TCA generated and the amount and composition of any residual substance generated) of any solvent recycling unit utilized or possessed by Defendant, during the relevant time period.

ANSWER: Walerko does not have a solvent recycling unit. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 9: For spent or used TCA or TCE, and for substances containing TCA or TCE, produced or resulting from the processing or use of TCA or TCE at Defendant's Facility for the relevant time period, state:

- a) The number of drums (or other standard measure) produced or resulting at the Facility each year;
- b) The number of drums (or other standard measure) sold or otherwise transferred each year to any other person, identifying such person and describing the arrangement with such person and any moneys paid or received. Also state for each year, the amount of spent or used TCA and TCE, or other substances containing TCA or TCE, in total and per drum (or other standard measure), for which any credit or money was received.

ANSWER:

- a) No record exists identifying the resulting number of drums. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas

Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

- b) Drums of spent TCA were accumulated on the property until 1983 at which time they were hauled away for disposal. No TCA has been purchased since 1979. All TCA was hauled away in 1983. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 10.: Describe how and where you stored TCA or TCE, spent or used TCA or TCE, or any other substances containing TCA or TCE before, during, and after use, including the exact location where the substances were stored and the exact amounts that were stored on a monthly, quarterly or yearly basis.

ANSWER: TCA was stored in drums before, during, and after use. Before and after use, the drums were stored in a drum storage area in a building behind Walerko's facility. During use, TCA was located in parts cleaning area. All amounts purchased were in the areas specified above until 1983 when they were hauled away. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 11.: Describe any monitoring policies or procedures utilized by you with respect to your use, transportation, storage or disposal of TCA or TCE before, during and after use.

ANSWER: In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 12: For each instance in which ~~TCA~~ or TCE, substance containing TCA or TCE, or any other hazardous substances were placed or released on or into any drain, sump, land or the environment, at or adjacent to the Facility, state the date when the placement or release occurred, the exact location thereof, the quantity, and the identity and role of each person who participated in, directed, supervised, observed or was knowledgeable about, the placement or release.

ANSWER: Walerko is unaware of any placement or release of any TCE, TCA, any substance containing TCE or TCA, or any other hazardous substance on its facility. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 13: Describe any tests or analyses of the soil, drinking water, or groundwater at or adjacent to the Facility, or of substances used in or resulting from, the use, reuse, processing or reprocessing of TCA or TCE at the Facility, and identify the person that conducted the test or analysis for you.

ANSWER: The drinking water was tested in July, 1987, by EIS, Environmental Engineers, Inc., and in May, 1988, by U.S. Environmental Protection Agency. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 14: If Defendant contends that hazardous substances have not been and are not currently being released into the soil and groundwater at the Facility, and that future releases are not threatened at the Facility, state:

- a) Each and every fact which forms the basis of this contention;
- b) The identity of each person with knowledge of the relevant facts supporting this contention;
- c) The identity of all documents that support or tend to refute this contention.

ANSWER:

- a) To Walerko's knowledge, no hazardous substance has ever spilled, leaked, been released, or discharged at its facility. The facility has continuous poured concrete floors. Except for a single floor drain in an area where no hazardous substances are used, the Walerko facility has no floor drains. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.
- b) Walerko incorporates by reference pursuant to Rule 10 of the Federal Rules of Civil Procedure its answer to Interrogatory No. 4. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.
- c) In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 15: State whether Defendant contends that any harm resulting from a release or threatened release at the Facility is divisible from harm caused by any other party.

- a) If the answer is in the affirmative, identify such other party, describe the harms, fully describe all facts and arguments on which Defendant relies to support such contention, and identify each person with knowledge of each such fact and contention;
- b) State whether Defendant contends that all or any part of the United States' response costs in this case were not caused by a release or threatened release from the Facility. If the answer is in the affirmative, fully describe all facts and arguments on which Defendant relies to support such contention, and identify each person with knowledge of each such fact and contention.

ANSWER:

- a) Walerko has no knowledge of any release or threatened release on its property. Walerko believes that releases may have taken place at the properties which are adjacent to the south and to the south and west of the Walerko facility; however, Walerko has no knowledge of such facts, except that which appears in newspaper stories and news broadcasts. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.
- b) Walerko incorporates by reference pursuant to Rule 10 of the Federal Rules of Civil Procedure its answer to Interrogatory No. 14. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 16.: If Defendant asserts any of the affirmative defenses described in section 107(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, state:

- a) Each and every fact which forms the basis of the defense;
- b) The identity of each person with knowledge of the relevant facts supporting the defense;
- c) The identity of all documents which tend to support or refute the defense.

ANSWER: In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 17.: State whether Defendant contends that all or any part of the United States' response costs were inconsistent with the National Contingency Plan; if the answer is in the affirmative, describe all facts on which Defendant relies to support such contention.

ANSWER: In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 18.: Identify every natural person, other than those already identified, who has been employed by you for the relevant time period at the Facility, and specify all such persons who have any responsibility or job functions in any way related to TCA or TCE.

ANSWER: In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 19.: If it is the Defendant's position that a good faith effort was made to comply on a timely basis with each of the Information Requests issued by U.S. EPA to Defendant then state all facts which support or tend to refute this position.

ANSWER: As soon as proper representatives of Walerko were advised about the requirements of an information request, they hired legal counsel to comply for Walerko as soon as possible. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.


INTERROGATORY NO. 20.: With respect each U.S. EPA Information Request received by Walerko, identify the date it was received, the natural persons who received or

reviewed it and each natural person who participated in responding, or in any decision whether to respond, to the Request.

ANSWER: Without receiving from Plaintiff copies of the green return receipt cards, assuming information request was mailed by certified mail, Walerko does not have specific information except that those persons listed in the answer to Interrogatory No. 14(b) are who participated in responding. Walerko incorporates by reference its answer to Interrogatory No. 19 in accordance with Rule 10 of the Federal Rules of Civil Procedure. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.

INTERROGATORY NO. 21.: State all facts which support or tend to refute any contention that Defendant did not respond on a timely basis to U.S. EPA's Information Requests because of its confusion of U.S. EPA's activities with respect to the Facility with Defendant's involvement with other superfund sites.

ANSWER: As soon as proper representatives of Walerko were advised about the requirements of an information request, they hired legal counsel to comply for Walerko as soon as possible. In accordance to Rule 29 of the Federal Rules of Civil Procedure, counsel for both parties stipulated that the deposition transcripts of Edward Michael Walerko, Thomas Walerko, Beverly Scheafer, and John Grover with their Seventy-six (76) exhibits are responsive to this Interrogatory.


Edward M. Walerko, President

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 5th day of December, 1991, a true and complete copy of the above and foregoing pleading was served upon each party or attorney of record herein by depositing the same in the United States mails, first class postage prepaid.



Jacqueline S. Homann